

<b><i>Interview Summary</i></b>	Application No.	Applicant(s)
	09/831,899	REYNAUD, GERARD
	Examiner Darwin P. Erez	Art Unit 3731

All participants (applicant, applicant's representative, PTO personnel):

(1) Darwin P. Erez.

(3) Mardson McQuay.

(2) Glenn Dawson.

(4) \_\_\_\_\_.

Date of Interview: 27 July 2005.

Type: a) Telephonic b) Video Conference  
c) Personal [copy given to: 1) applicant 2) applicant's representative]

Exhibit shown or demonstration conducted: d) Yes e) No.  
If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: 1,23,25 and 36.

Identification of prior art discussed: Berlin and Teder, both are prior art of record.

Agreement with respect to the claims f) was reached. g) was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.



GLENN K. DAWSON  
PRIMARY EXAMINER

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

\_\_\_\_\_  
Examiner's signature, if required

## Summary of Record of Interview Requirements

### **Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record**

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### **Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews**

#### **Paragraph (b)**

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### **37 CFR §1.2 Business to be transacted in writing.**

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

#### **Examiner to Check for Accuracy**

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments:

As to claim 17, it was argued that Berlin fails to teach an arm that extends from the housing. Though it was agreed by both examiners that element 48 (circuit board) by itself is not an arm that extends from the housing, it is still uncertain if the combination of the arm and the means for supporting the microphone on to the circuit board can be viewed as an arm.

As to claim 25, it is the examiners' position that <sup>the</sup> ~~means~~ for supporting the microphone onto the circuit board is equivalent to an "arm".

As to claim 36, it does not appear that the Teder reference could be used to modify the Berlin reference since there is no motivation to put a tubular conduit over and around two microphones.

As <sup>new</sup> ~~the~~ potential 112 problem, the applicant should be careful when positively claiming the arrangement of the arm, specifically to the arm extending away from housing. In this instance, it would be a 112 problem if a dependent claim also recites the arm extending away or connected to a body, instead of a housing.

### Applicant Initiated Interview Request Form

Application No.: 09/831,899 First Named Applicant: GERARD REYNAUD  
 outstanding non-final office  
 Examiner: D. P. EREZO Art Unit: 3731 Status of Application: action

**Tentative Participants:**

(1) Mardson McQuay (2) \_\_\_\_\_  
 (3) \_\_\_\_\_ (4) \_\_\_\_\_

Proposed Date of Interview: OPEN Proposed Time: \_\_\_\_\_

(1) [  ] Telephonic (2) [  ] Personal (3) [  ] Video Conference

Exhibit To Be Shown or Demonstrated: [  ] YES [  ] NO

If yes, provide brief description: \_\_\_\_\_

#### Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) rejection	Claims 17 and 25	all references of record	[ <input type="checkbox"/> ]	[ <input type="checkbox"/> ]	[ <input type="checkbox"/> ]
(2) new Claims 36 and 37		all references of record	[ <input type="checkbox"/> ]	[ <input type="checkbox"/> ]	[ <input type="checkbox"/> ]

[X] Continuation Sheet Attached

**Brief Description of Arguments to be Presented:**

Applicants firmly believe that Claims 17 and 25 have been improperly rejected now for the second time in a row based on improper interpretations of elements in, and combination of, the cited references that disregard the teachings of the references as a whole and a reasonable interpretation of the recited features in view of the applicants' disclosure.

Applicants have also attached herewith two new proposed claims to be discussed during the personal interview in view of all references now of record.

An interview was conducted on the above-identified application on February 24, 2005.

**NOTE:**

This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible

**GLENN K. DAWSON**  
**PRIMARY EXAMINER**

(Applicant/Applicant's Representative Signature)

(Examiner/SPE Signature)

Claim 36 (New) An oxygen breathing mask, comprising:

- a flexible cap;
- an exhalation port pierced through the flexible cap;
- a housing disposed on an inner surface of the flexible cap, the housing being separate from the exhalation port;
- a body mounted inside the housing;
- an arm having first and second ends and extending from the housing, the first end of the arm being connected to the body; and
- a microphone assembly supported at the second end of the arm and comprising a conical tubular mouth-piece having first and second distal ends, an acoustic chamber connected at the second distal end of the mouth-piece and disposed adjacent the flexible cap, and at least two microphones disposed in the acoustic chamber, wherein the conical tubular mouth-piece extends from the first distal end connected to the acoustic chamber to the second distal end projecting away from the flexible cap.

Claim 37 (New) The oxygen breathing mask according to claim 36, wherein the second distal end of the tubular mouth-piece defines an elliptical aperture turned away from the flexible cap.